

AMENDED IN ASSEMBLY AUGUST 28, 2006
AMENDED IN ASSEMBLY AUGUST 23, 2006
AMENDED IN ASSEMBLY AUGUST 21, 2006
AMENDED IN ASSEMBLY APRIL 24, 2006
AMENDED IN ASSEMBLY FEBRUARY 16, 2006
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AMENDED IN SENATE MAY 4, 2005

SENATE BILL

No. 813

Introduced by Senator Denham
(Coauthor: Senator Machado)
(Coauthor: Assembly Member Wolk)

February 22, 2005

An act to amend Sections 17017.7, 17071.33, 17071.35, 17071.40, and 17071.75 of the Education Code, relating to school facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 813, as amended, Denham. School facilities.

(1) Existing law, the Leroy F. Greene State School Building Lease-Purchase Law of 1976, authorizes the State Allocation Board to apportion state funding to applicant school districts for designated school facilities construction purposes. Existing law provides a priority schedule for the approval of project funding for new construction with respect to multitrack year-round schools.

This bill would provide that those provisions regarding the priority schedule on and after January 1, 2012, only apply to applications for new construction projects funded pursuant to the

~~Kindergarten-University Public Education Facilities Bond Act of 2006.~~

~~(2)~~

~~(1) Existing law, the Leroy F. Greene School Facilities Act of 1998, requires the State Allocation Board to allocate to applicant school districts, prescribed per-unhoused-pupil state funding for construction and modernization of school facilities, including hardship funding, and supplemental funding for site development and acquisition.~~

~~Existing law requires an applicant school district for new construction to submit to the board a one-time report of existing school building capacity, to be calculated pursuant to a specified formula. Existing law requires, for purposes of determining existing school building capacity, the calculation to be adjusted as required for first priority status, as provided.~~

~~This bill would require that calculation adjustment to be phased out over the next 6 years, commencing on January 1, 2007, as provided, except that the phasing-out provision is not applicable to an application for funding pursuant to the Kindergarten-University Public Education Facilities Bond Act of 2006.~~

~~(3) Existing law requires the maximum school building capacity for each school district applying for new construction funding to be increased by the number of pupils reported by the Superintendent of Public Instruction for that grade level, as specified. Existing law requires that adjustment to be calculated on the basis, at the option of the district, of either the district as a whole or the appropriate attendance area.~~

~~This bill would make this section only apply to an application for funding pursuant to the Kindergarten-University Public Education Facilities Bond Act of 2006.~~

~~(4) Existing law exempts a school on a year-round, multitrack calendar with a density of 200 or more pupils enrolled per acre, that is located in a school district with 40% of its pupils attending a multitrack, year-round school from specified building capacity requirements.~~

~~This bill would instead exempt a school that is located in a school district with 30% of its pupils attending a multitrack, year-round school.~~

~~(5)~~

~~(2) Existing law provides that the ongoing eligibility of a school district for new construction funding is determined by making~~

calculations related to certain factors, including, but not limited to, enrollment projections, the number of pupils that may be adequately housed in the existing school building capacity of the district, and increases or decreases in enrollment resulting from the Year-Round School Grant Program.

This bill would prohibit the enrollment changes reported under the Year-Round School Grant Program from reducing the ongoing eligibility of a school district for new construction funding, if the district provides specified evidence, except in the case of an application for new construction funding pursuant to the Kindergarten-University Public Education Facilities Bond Act of 2006.

(3) This bill would incorporate additional changes in Section 17071.75 of the Education Code proposed by A.B. 2947, that would become operative only if A.B. 2947 and this bill are both chaptered and become effective on or before January 1, 2007, and this bill is chaptered last.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 17017.7 of the Education Code is~~
2 ~~amended to read:~~
3 ~~17017.7. (a) Notwithstanding any other provision of this~~
4 ~~chapter, priority for the approval of project funding for new~~
5 ~~construction under this chapter shall be as follows:~~
6 ~~(1) First priority for construction funds shall be given to~~
7 ~~school districts with a substantial enrollment in multitrack~~
8 ~~year-round schools requesting state funding for 50 percent of the~~
9 ~~cost of a project that would be constructed to operate on a~~
10 ~~multitrack year-round basis.~~
11 ~~(2) Second priority shall be for school districts with a~~
12 ~~substantial enrollment in multitrack year-round schools~~
13 ~~requesting state funding for the entire cost of a project that would~~
14 ~~be constructed to operate on a multitrack year-round basis.~~
15 ~~(3) Third priority shall be for school districts without a~~
16 ~~substantial enrollment in multitrack year-round schools~~
17 ~~requesting state funding for 50 percent of the cost of a project to~~
18 ~~operate on a multitrack year-round basis.~~

~~(4) Fourth priority shall be for school districts without a substantial enrollment in multitrack year-round schools requesting state funding for the entire cost of a project that would be constructed to operate on a multitrack year-round basis.~~

~~(5) Fifth priority shall be for school districts with a substantial enrollment in multitrack year-round schools requesting state funding for 50 percent of the cost of a project that would not operate on a multitrack year-round basis.~~

~~(6) Sixth priority shall be for school districts with a substantial enrollment in multitrack year-round schools requesting state funding for the entire cost of a project that would not operate on a multitrack year-round basis.~~

~~(b) The board shall not restrict the availability of funding for construction of multitrack year-round schools from any funding source available to the State School Building Lease-Purchase Fund, but shall make approval of project funding for those projects the first priority in accordance with this section.~~

~~(c) “Substantial enrollment,” for the purposes of this section, means enrollment of at least 30 percent of district pupils in kindergarten and grades 1 to 6, inclusive, or 40 percent of pupils in kindergarten and grades 1 to 12, inclusive, in the high school attendance area for which the school district is applying for new facilities. The calculation set forth in this subdivision, as to a self-certifying district, shall be made by the district, in accordance with any standards governing that calculation that are adopted by the board. The calculation shall be certified by the district to the board and used by the board for the purposes of this section. The self-certifying district shall maintain documentation of the calculation as may be required by the board, and the calculation shall be subject to subsequent audit as the board may direct. If a self-certifying district is found by the board to have materially misrepresented its pupil enrollment pursuant to this subdivision, the board may impose either or both of the penalties set forth in paragraphs (1) and (2) of subdivision (b) of Section 17041.2, in accordance with that section.~~

~~(d) “Multitrack year-round school,” for purposes of this section, means a school for which the applicant school district demonstrates that both of the following criteria are satisfied:~~

~~(1) The pupils are divided into three or more groups or tracks, which rotate attendance so that, for a majority of schooldays~~

1 during the school year, at least one group or track is not attending
2 the school while all other groups or tracks are in attendance.

3 ~~(2) The operation of the school on a multitrack year-round~~
4 ~~basis has resulted in an increase in enrollment capacity.~~

5 ~~(e) Notwithstanding any other provision of this section, the~~
6 ~~board may continue to implement any year-round school priority~~
7 ~~provisions for hardships adopted prior to September 1, 1990.~~

8 ~~(f) On and after January 1, 2012, this section shall apply only~~
9 ~~to applications for new construction projects funded pursuant to~~
10 ~~the Kindergarten-University Public Education Facilities Bond~~
11 ~~Act of 2006.~~

12 ~~SEC. 2. Section 17071.33 of the Education Code is amended~~
13 ~~to read:~~

14 ~~17071.33.— (a) (1) For the purposes of determining existing~~
15 ~~school building capacity, the calculation shall be adjusted as~~
16 ~~required for first priority status pursuant to Section 17017.7 as~~
17 ~~that calculation would have been made under the policies of the~~
18 ~~board in effect immediately preceding September 1, 1998.~~

19 ~~(2) The calculation adjustment made on applications filed on~~
20 ~~and after January 1, 2007, shall be phased out over the next six~~
21 ~~years, so that the percentage requirement specified in subdivision~~
22 ~~(e) of Section 17017.7 for kindergarten and grades 1 to 6,~~
23 ~~inclusive, is reduced by five percentage points each year, and the~~
24 ~~percentage for kindergarten and grades 1 to 12, inclusive, is~~
25 ~~reduced by seven percentage points for each of the first five years~~
26 ~~and five percentage points for the sixth year. This paragraph shall~~
27 ~~not apply to an application for funding pursuant to the~~
28 ~~Kindergarten-University Public Education Facilities Bond Act of~~
29 ~~2006.~~

30 ~~(b) Notwithstanding subdivision (a), with respect to a high~~
31 ~~school district, the existing school building capacity shall be~~
32 ~~calculated without regard to multitrack year-round school~~
33 ~~considerations.~~

34 ~~SEC. 3. Section 17071.35 of the Education Code is amended~~
35 ~~to read:~~

36 ~~17071.35.— (a) Notwithstanding any other provisions of law,~~
37 ~~the maximum school building capacity for each applicant district~~
38 ~~shall be increased by the number of pupils reported by the~~
39 ~~Superintendent for that grade level pursuant to Section 42268.~~
40 ~~This adjustment shall be calculated on the basis, at the option of~~

1 ~~the district, of either the district as a whole or the appropriate~~
2 ~~attendance area.~~

3 ~~(b) This section shall only apply to an application for funding~~
4 ~~pursuant to the Kindergarten-University Public Education~~
5 ~~Facilities Bond Act of 2006.~~

6 ~~SEC. 4.~~

7 *SECTION 1.* Section 17071.40 of the Education Code is
8 amended to read:

9 17071.40. Each school on a year-round, multitrack calendar
10 that has a density of 200 or more pupils enrolled per acre, that is
11 located in a school district with 30 percent of its pupils attending
12 multitrack, year-round schools shall be exempted from the
13 increase in school building capacity required by Section
14 17071.35. Nothing in this section shall be construed as
15 exempting the school from the requirements of Section 17071.33.

16 ~~SEC. 5.~~

17 *SEC. 2.* Section 17071.75 of the Education Code is amended
18 to read:

19 17071.75. After a one-time initial report of existing school
20 building capacity has been completed, the ongoing eligibility of a
21 school district for new construction funding shall be determined
22 by making all of the following calculations:

23 (a) A school district that applies to receive funding for new
24 construction shall use the following methods to determine
25 projected enrollment:

26 (1) A school district that has two or more schoolsites each
27 with a pupil population density that is greater than 115 pupils per
28 acre in kindergarten and grades 1 to 6, inclusive, or a schoolsite
29 pupil population density that is greater than 90 pupils per acre in
30 grades 7 to 12, inclusive, as determined by the Superintendent
31 using enrollment data from the California Basic Educational Data
32 System for the 2004–05 school year, may submit an application
33 for funding for projects that will relieve overcrowded conditions.
34 That school district may also submit an alternative enrollment
35 projection for the fifth year beyond the fiscal year in which the
36 application is made using a methodology other than the cohort
37 survival method as defined by the board pursuant to paragraph
38 (2), to be reviewed by the Demographic Research Unit of the
39 Department of Finance, in consultation with the department and
40 the Office of Public School Construction. If the Office of Public

1 School Construction and the Demographic Research Unit of the
2 Department of Finance jointly determine that the alternative
3 enrollment projection provides a reasonable estimate of expected
4 enrollment demand, a recommendation shall be forwarded to the
5 board to approve or disapprove the application, in accordance
6 with all of the following:

7 (A) Total funding for new construction projects using this
8 method shall be limited to five hundred million dollars
9 (\$500,000,000), from the Kindergarten-University Public
10 Education Facilities Bond Act of 2004.

11 (B) The eligibility amount for proposed projects that relieve
12 overcrowding is the difference between the alternative
13 enrollment projection method for the year the application is
14 submitted and the cohort survival method, as defined by
15 paragraph (2), for the same year, adjusted by the existing pupil
16 capacity in excess of the projected enrollment according to the
17 cohort survival projection method.

18 (C) The Office of Public School Construction shall determine
19 whether each proposed project will relieve overcrowding,
20 including, but not limited to, the elimination of the use of
21 Concept 6 calendars, four track year-round calendars, or busing
22 in excess of 40 minutes, and recommend approval to the board.
23 The number of unhoused pupil grants requested in the application
24 for funding from the eligibility determined pursuant to this
25 paragraph shall be limited to the number of seats necessary to
26 relieve overcrowding, including, but not limited to, the
27 elimination of the use of Concept 6 calendars, four track
28 year-round calendars, or busing in excess of 40 minutes, less the
29 number of unhoused pupil grants attributed to that school as a
30 source school in an approved application pursuant to Section
31 17078.24.

32 (D) A school district shall use the same alternative enrollment
33 projection methodology for all applications submitted pursuant to
34 this paragraph and shall calculate those projections in accordance
35 with the same district-wide or high school attendance area used
36 for the enrollment projection made pursuant to paragraph (2).

37 (2) A school district shall calculate enrollment projections for
38 the fifth year beyond the fiscal year in which the application is
39 made. Projected enrollment shall be determined by utilizing the
40 cohort survival enrollment projection system, as defined and

1 approved by the board. The board may supplement the cohort
2 survival enrollment projection by the number of unhoused pupils
3 that are anticipated as a result of dwelling units proposed
4 pursuant to approved and valid tentative subdivision maps.

5 (b) Add the number of pupils that may be adequately housed
6 in the existing school building capacity of the applicant school
7 district as determined pursuant to Article 2 (commencing with
8 Section 17071.10) to the number of pupils for whom facilities
9 were provided from any state or local funding source after the
10 existing school building capacity was determined pursuant to
11 Article 2 (commencing with Section 17071.10). For this purpose,
12 the total number of pupils for whom facilities were provided
13 shall be determined using the pupil loading formula set forth in
14 Section 17071.25.

15 (c) Subtract the number of pupils pursuant to subdivision (b)
16 from the number of pupils determined pursuant to paragraph (2)
17 of subdivision (a).

18 (d) The calculations required to establish eligibility under this
19 article shall result in a distinction between the number of existing
20 unhoused pupils and the number of projected unhoused pupils.

21 (e) (1) Apply the increase or decrease resulting from the
22 difference between the most recent report made pursuant to
23 Section 42268, and the report used in determining the baseline
24 capacity of the school district pursuant to subdivision (a) of
25 Section 17071.25.

26 (2) Eligibility shall not be reduced pursuant to paragraph (1) in
27 any year for a school for which the school district provides
28 evidence that the school district will complete a project within
29 three years that will house the pupils for whom grants were
30 requested pursuant to Section 42260. This paragraph shall not
31 apply to an application for new construction funding pursuant to
32 the Kindergarten-University Public Education Facilities Bond
33 Act of 2006.

34 (f) For a school district with an enrollment of 2,500, or less, an
35 adjustment in enrollment projections shall not result in a loss of
36 ongoing eligibility to that school district for a period of three
37 years from the date of the approval of eligibility by the board.

38 *SEC. 2.5. Section 17071.75 of the Education Code is*
39 *amended to read:*

1 17071.75. After a one-time initial report of existing school
2 building capacity has been completed, the ongoing eligibility of a
3 school district for new construction funding shall be determined
4 by making all of the following calculations:

5 (a) A school district that applies to receive funding for new
6 construction shall use the following methods to determine
7 projected enrollment:

8 (1) A school district that has two or more schoolsites each
9 with a pupil population density that is greater than 115 pupils per
10 acre in kindergarten and grades 1 to 6, inclusive, or a schoolsite
11 pupil population density that is greater than 90 pupils per acre in
12 grades 7 to 12, inclusive, as determined by the Superintendent
13 using enrollment data from the California Basic Educational Data
14 System for the 2004–05 school year, may submit an application
15 for funding for projects that will relieve overcrowded conditions.
16 That school district may also submit an alternative enrollment
17 projection for the fifth year beyond the fiscal year in which the
18 application is made using a methodology other than the cohort
19 survival method as defined by the board pursuant to paragraph
20 (2), to be reviewed by the Demographic Research Unit of the
21 Department of Finance, in consultation with the department and
22 the Office of Public School Construction. If the Office of Public
23 School Construction and the Demographic Research Unit of the
24 Department of Finance jointly determine that the alternative
25 enrollment projection provides a reasonable estimate of expected
26 enrollment demand, a recommendation shall be forwarded to the
27 board to approve or disapprove the application, in accordance
28 with all of the following:

29 (A) Total funding for new construction projects using this
30 method shall be limited to five hundred million *dollars*
31 (\$500,000,000), from the Kindergarten-University Public
32 Education Facilities Bond Act of 2004.

33 (B) The eligibility amount for proposed projects that relieve
34 overcrowding is the difference between the alternative
35 enrollment projection method for the year the application is
36 submitted and the cohort survival method, as defined by
37 paragraph (2), for the same year, adjusted by the existing pupil
38 capacity in excess of the projected enrollment according to the
39 cohort survival projection method.

1 (C) The Office of Public School Construction shall determine
2 whether each proposed project will relieve overcrowding,
3 including, but not limited to, the elimination of the use of
4 Concept 6 calendars, four track year-round calendars, or ~~bussing~~
5 *busing* in excess of 40 minutes, and recommend approval to the
6 board. The number of unhoused pupil grants requested in the
7 application for funding from the eligibility determined pursuant
8 to this paragraph shall be limited to the number of seats
9 necessary to relieve overcrowding, including, but not limited to,
10 the elimination of the use of Concept 6 calendars, four track
11 year-round calendars, or ~~bussing~~ *busing* in excess of 40 minutes,
12 less the number of unhoused pupil grants attributed to that school
13 as a source school in an approved application pursuant to Section
14 17078.24.

15 (D) A school district shall use the same alternative enrollment
16 projection methodology for all applications submitted pursuant to
17 this paragraph and shall calculate those projections in accordance
18 with the same district-wide or high school attendance area used
19 for the enrollment projection made pursuant to paragraph (2).

20 (2) A school district shall calculate enrollment projections for
21 the fifth year beyond the fiscal year in which the application is
22 made. Projected enrollment shall be determined by utilizing the
23 cohort survival enrollment projection system, as defined and
24 approved by the board. The board may supplement the cohort
25 survival enrollment projection by the number of unhoused pupils
26 that are anticipated as a result of dwelling units proposed
27 pursuant to approved and valid tentative subdivision maps.

28 (b) (1) Add the number of pupils that may be adequately
29 housed in the existing school building capacity of the applicant
30 school district as determined pursuant to Article 2 (commencing
31 with Section 17071.10) to the number of pupils for whom
32 facilities were provided from any state or local funding source
33 after the existing school building capacity was determined
34 pursuant to Article 2 (commencing with Section 17071.10). For
35 this purpose, the total number of pupils for whom facilities were
36 provided shall be determined using the pupil loading formula set
37 forth in Section 17071.25.

38 (2) *Subtract from the number of pupils calculated in*
39 *paragraph (1) the number of pupils that were housed in facilities*
40 *to which the school district or county office of education*

1 *relinquished title as the result of a transfer of a special education*
2 *program between a school district and a county office of*
3 *education or special education local plan area, if applicable. For*
4 *this purpose, the total number of pupils that were housed in the*
5 *facilities to which title was relinquished shall be determined*
6 *using the pupil loading formula adopted by the board pursuant to*
7 *subparagraph (B) of paragraph (2) of subdivision (a) of Section*
8 *17071.25. For purposes of this paragraph, title also includes any*
9 *lease interest with a duration of greater than five years.*

10 (c) Subtract the number of pupils pursuant to subdivision (b)
11 from the number of pupils determined pursuant to paragraph (2)
12 of subdivision (a).

13 (d) The calculations required to establish eligibility under this
14 article shall result in a distinction between the number of existing
15 unhoused pupils and the number of projected unhoused pupils.

16 (e) (1) Apply the increase or decrease resulting from the
17 difference between the most recent report made pursuant to
18 Section 42268, and the report used in determining the baseline
19 capacity of the school district pursuant to subdivision (a) of
20 Section 17071.25.

21 (2) *Eligibility shall not be reduced pursuant to paragraph (1)*
22 *in any year for a school for which the school district provides*
23 *evidence that the school district will complete a project within*
24 *three years that will house the pupils for whom grants were*
25 *requested pursuant to Section 42260. This paragraph shall not*
26 *apply to an application for new construction funding pursuant to*
27 *the Kindergarten-University Public Education Facilities Bond*
28 *Act of 2006.*

29 (f) *For purposes of calculating projected enrollment pursuant*
30 *to subdivision (a), the board may adopt regulations to ensure*
31 *that the enrollment calculation of individuals with exceptional*
32 *needs receiving special education services is adjusted in the*
33 *enrollment reporting period in which the transfer occurs and*
34 *three previous school years as a result of any transfer of a*
35 *special education program between a school district and a*
36 *county office of education or a special education local plan area.*
37 *However, the projected enrollment calculation of a county office*
38 *of education shall only be adjusted if a transfer of title for the*
39 *special education program facilities has occurred. The*
40 *regulations, if adopted, shall ensure that if a transfer of title to*

1 *special education program facilities constructed with state funds*
2 *occurs within 10 years after initial occupancy of the facility, the*
3 *receiving school district or school districts shall remit to the*
4 *state a proportionate share of any financial hardship assistance*
5 *provided for the project pursuant to Section 17075.10, if*
6 *applicable.*

7 ~~(f)~~

8 (g) For a school district with an enrollment of 2,500, or less,
9 an adjustment in enrollment projections shall not result in a loss
10 of ongoing eligibility to that school district for a period of three
11 years from the date of the approval of eligibility by the board.

12 SEC. 3. Section 2.5 of this bill incorporates amendments to
13 Section 17071.75 of the Education Code proposed by both this
14 bill and A.B. 2947. It shall only become operative if (1) both bills
15 are enacted and become effective on or before January 1, 2007,
16 (2) each bill amends Section 17071.75 of the Education Code,
17 and (3) this bill is enacted after A.B. 2947, in which case Section
18 2 of this bill shall not become operative.